

KEEPING CURRENT

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Umbrella baseball association ordered to admit baseball league as a member (*Mississauga Majors v. Provincial Women's Softball Association*)

By Stephen Thiele

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Sports law is not just about representing high-priced athletes in contract negotiations, salary arbitrations or on product endorsements. Sports law can also include helping an amateur sports association obtain membership in a larger umbrella sports association. This requires a lawyer to have an understanding of corporate legislation, including, for example, the [Ontario Not-for-Profit Corporations Act](#) (“ONCA”) and the bylaws of the umbrella associations. Armed with this knowledge, an effective “sports” lawyer can potentially avoid the litigation that took place in [Mississauga Majors Baseball Association v. Provincial Women's Softball Association, 2024 ONSC 4986](#).

In this case, a local baseball and softball association (the “Majors”) obtained a declaration that the umbrella Provincial Women's Softball Association (“PWSA”) was required to admit it to membership based on the PWSA's bylaws and [section 48](#) of the [ONCA](#).

The Majors offered baseball and softball leagues for youth and young adults, with

the softball program exclusively operated for females.

The Majors felt that it was essential to be a member in the PWSA so that it could attract and retain players, and accordingly, applied for membership in the PWSA twice. However, each application the Majors made for membership was refused by the PWSA.

The first application was rejected on the grounds that the Majors had not presented a plan. More specifically, there were no costs, budgets or coaches presented.

While the Majors sought to appeal this rejection, the PWSA refused to hear its appeal.

Subsequently, the Majors made a second application for membership.

The PWSA scheduled a membership hearing and the Majors prepared rosters, budgets, certifications, coaching information and team membership information for the hearing. However, the PWSA's hearing committee did not request these documents and instead

raised questions which suggested, among other things, that the Majors' admission into the PWSA would harm its house league program.

The hearing concluded with the Majors being told that it could join the PWSA for the 2024 season on the condition that it would not hold open tryouts for athletes outside of its jurisdiction.

The Majors did not agree to this unduly restrictive condition. Accordingly, the Majors' application was rejected for "lack of transparency". In addition, the PWSA stated that the Majors had engaged in "some threats and bullying" which was contrary to PWSA's "safe sports values".

The Majors then brought a court application under the [ONCA](#) for an order that it be admitted to membership in the PWSA on the grounds that the Majors had met the PWSA's membership criteria. Under article 2.1 of the PWSA's bylaws, an applicant association was entitled to be a member if it was governed by a Board of Directors, with Bylaws and Policies under which all of its members were governed.

However, the PWSA sought to rely on article 1.02 of its bylaw to contend that it had the authority to hold a membership hearing to assess the Majors' application and that it held a discretion to deny the Majors' request to become a member.

The court disagreed with the PWSA's position.

The court explained that under [section 48\(1\)](#) of [ONCA](#), the bylaws of a corporation must set out the conditions required for being a member of a corporation, including whether a corporation or other entity could be a member.

The court held that article 1.02 of the PWSA bylaws did not apply because that section only applied to the admission of an individual team, not an entire association.

Instead, article 2.1 of the PWSA bylaws governed. Accordingly, the PWSA improperly rejected the admission of the Majors as a member because this section was mandatory and it was not disputed that the Majors was governed by a Board of Directors, with bylaws and policies that governed its members.

As a preliminary matter, the court also considered whether the Majors qualified as a complainant under [section 191](#) of the [ONCA](#).

[Section 191](#) provides as follows:

On the application of a complainant or a creditor of a corporation, the court may make an order directing the corporation or any director, officer, employee, agent, auditor, trustee, receiver, receiver-manager or liquidator of the corporation to comply with this Act, the regulations or the articles or by-laws of the corporation or restraining any such person from acting in breach of them and may make any further order that it thinks fit.

A "complainant" is defined under [section 182\(2\) and \(3\)](#) of the [ONCA](#) as being a person, who not more than two years previous, ceased to be a member, director or officer of the corporation or of any of its affiliates, or any other person who, in the discretion of the court, is a proper person to make an application.

While the Majors contended that it was both appropriate for the court to deal with its application exercising the court's discretion under [section 182\(3\)](#) and that it was historically affiliated with the PWSA, the court was only required to determine whether the Majors was "a proper person" under [section 182\(3\)](#).

The court, relying on analogous case law under [section 245](#) of the [Ontario Business](#)



[Corporations Act](#), accepted that the discretion to grant the Majors status as a complainant was “broad” and “unfettered”.

The court further noted that the following factors governed the exercise of the discretion:

- The connection between the applicant to the corporation at issue;
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- The applicant’s interest in how the corporation is managed;
- The applicant’s interest to right a wrong to itself or others; and
- Whether there were other courses of action available to obtain an adjudication or remedy.

In this case, the court concluded that the purpose of [section 182\(3\)](#) was to allow “a proper person” who was not a member, director or officer of a corporation but who, like the Majors, was closely related and dependent on that corporation (i.e. the PWSA), to apply for remedial protection to the court.

The court found that the Majors had a strong interest in how the PWSA was managed. The Majors also had no other recourse to ensure that the PWSA complied with its bylaws.

The key takeaways from this case are as follows: 1) the court will interpret the word “complainant” under the [ONCA](#) broadly; 2) the court will likely be more willing to exercise its discretion to find a party to be a “complainant” where a wrong has been done to that party; and 3) not-for-profit organizations and associations cannot make up their own rules; bylaws must be followed.

Contact us

If you have a litigation matter and are in need of legal advice, please do not hesitate to contact **Stephen Thiele** in our dispute resolution group at 416.865.6651 or via email at sthiele@grllp.com.

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